

[Mr. V. Subba Aiyar.]

DEPUTY PRESIDENT: It rests with him whether to agree or not.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: I cannot say anything definite. The question rests not with me, but with my employers.

DEPUTY PRESIDENT: We have to lose the privilege of having him. Mr. Subba Aiyar will be the Chairman of the Select Committee. Does the House agree to the Select Committee as above stated being appointed with direction to submit a report within 6 months?

The motion was carried.

THE LIMITATION REGULATION AMENDMENT BILL.

MR. V. SUBBA AIYAR: The Limitation Regulation Amendment Bill came up for introduction in the prior Council on the 9th November 1921, but was put off for this Council as being an important measure. The Civil Procedure Code and the Limitation Regulation have generally to be taken up together. It was, therefore, that when the Civil Procedure Code was taken up for amendment, this was also taken up.

One of the main provisions that have been made is about the limitation as to the loan of paddy. I believe it is common knowledge among those who are acquainted with the northern districts, that in the case of hypothecation bonds for loans of paddy they were sued upon up to the end of 12 years from the date on which the cause of action arose.

DEPUTY PRESIDENT: Are you introducing the Bill or discussing the principle?

MR. V. SUBBA AIYAR: Please excuse me, Sir. I beg to move that the Bill be read in Council.

MR. R. KRISHNA PILLAI: I second it.

MR. V. SUBBA AIYAR: In the case of paddy it was understood that the ordinary limitation of 12 years would apply; and the Alleppey and other District Courts did decide accordingly. But when the matter was brought up to the High Court, it was decided recently that the period of limitation was only six years. It is, therefore, now proposed to provide that a suit may be brought within 12 years. That is one of the main amendments. With regard to the other Sections of the Regulation, the scope of clause 5 has been extended so that the provisions of the Limitation Regulation empowering the court to excuse delay may not only be extended to suits covered by the Limitation Regulation but also to suits under other Regulations. In clause 7, the existing provision has been amended with a view to restrict the applications mentioned therein to the execution of decrees alone. As the Section stands at present, any application affecting a minor may be put off until the minor comes of age to the inconvenience of courts and parties. In the second

portion of it, the phrase "joint creditors or claimants" was held to be misleading in 23 and 22, T. L. R., and, therefore, the wording has been altered to make it more clear. Again, Section 14 of the present Bill explains what is meant by want of jurisdiction or other causes of a like nature. It says that misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction.

Another important amendment is with reference to the computation of the period. In many Regulations it is provided that notice should be given to Government or to Government officers or to municipal authorities or to other bodies. In some cases the period of limitation is very small—3 or 6 months. The present amendment provides that the period of notice which may be prescribed under any Regulation shall be excluded. That is, if under a Regulation two months' notice is required, and if under the Limitation Regulation the period is 6 months, a party will have 8 months to file a suit.

Then in Article 64, some modification is made in the case of instalment bonds. We are aware that, in the case of instalment bonds, notice has to be given to enable the person entitled under it to claim the whole amount in one lump if there is default in respect of instalment. In many cases, especially in chitty transactions, it happens that after giving notice for default, the foreman receives the dues of one or two instalments and is prepared to condone the default and relieve the subscriber of the penalty for the default and allow him to pay in instalments. But, as the article stands at present, the creditor cannot condone the default and is forced to file a suit for the whole amount, after he has given notice. This amendment is, therefore, made so as to remove this difficulty. Another important notification is about vendor's lien on immovable property. While ordinarily the time allowed is twelve years, the period for the enforcement of a charge in the case of vendor's lien is only three years. There is another important change. The Civil Procedure Code insists upon claims being preferred within a certain period. This restriction has been removed and is left to the discretion of the Court. These are the main lines on which the amendment has been made.

I beg to move that the principle of the Bill be accepted by the Council and the Bill read.

DEPUTY PRESIDENT: - Does the House agree to that?

The House having accepted the motion, the Secretary read the title of the Bill.

MR. V. SUBBA AIYAR: Sir, I beg to move that the Bill be referred to a Select Committee.

MR. S. PARAMESVARA AIYAR: I second it.

MR. JOSEPH PANJIKARAN: Sir, there was no discussion on the Bill.

MR. J. JOHN NIDIRY: We wanted to speak a few words about the Bill.

DEPUTY PRESIDENT: Let me explain. After the introduction of the Bill the motion was seconded and we began to discuss the

[The Deputy President.]

Bill. But there was no one coming forward to speak. So I thought you accepted the principle. And so we proceeded to the next stage; and now we are at the reference to the Select Committee.

MR. J. JOHN NIDIRY: We did not understand you; you were not quite audible.

DEPUTY PRESIDENT: I am sorry I cannot help it.

MR. JOSEPH PANJIKARAN: There was no show of hands to indicate that this Bill was accepted.

DEPUTY PRESIDENT: There was a majority—the whole of you. I felt, in fact, that it was rather curious that, when the principle of the Limitation Regulation Amendment Bill was discussed, none of you were ready to give the benefit of your opinion on it.

MR. J. JOHN NIDIRY: We did not hear you; that was the reason.

DEPUTY PRESIDENT: I am sorry. I cannot go behind.

MR. M. R. MADHAVA VARIAR: Sir, I oppose the motion that the Bill be referred to a Select Committee.

DEPUTY PRESIDENT: Who seconds it?

MR. J. JOHN NIDIRY: I also oppose it.

DEPUTY PRESIDENT: Then you do not want the Select Committee to be appointed.

MR. V. SUBBA AIYAR: If it is not referred to a Select Committee, the next procedure is to bring it to the Council again without referring to a Select Committee. That procedure is rather dangerous.

MR. K. PARAMESVARAN PILLAI: I thought, Sir, that you made a distinction between reading the Bill and opposing the principle of the Bill. When Mr. Subba Aiyar introduced the Bill, you asked whether the proposition had been put forward and seconded; and requested that the Bill be read in Council and seconded. Then he spoke about the principle of the Bill. We naturally thought that there was a distinction between the reading of a Bill and the introduction of it.

DEPUTY PRESIDENT: I will explain once more. Mr. Subba Aiyar introduced the Bill, and having done it, went on explaining the principle of the Bill. Under the Regulation the member in charge shall move that the Bill be read in Council. It is only when that motion is seconded that he can proceed to the principle of the Bill being discussed. I drew his attention to the fact that his motion was not seconded, and, therefore, he could not discuss the principle of the Bill. He then moved that the Bill be read in Council; then this motion was seconded, and I allowed him to proceed with the discussion of the principle of the Bill. He finished; and after he sat down, I was just waiting to see whether other members would take up the discussion. You remained quiet; and I thought that none of you cared to speak. Then I put the

question that the principle of the Bill be accepted by the Council; and I asked you to raise your hands. You all did, and that motion was passed. The next procedure after that is that the Bill be referred to a Select Committee. If any one of you had proposed to continue the discussion, I would have put the question later. But I found that there was nobody coming forward.

I do not question for a moment the statement of Mr. Panjikaran that he was labouring under a mistake.

MR. JOSEPH PANJIKARAN: I never suggested that.

MR. J. JOHN NIDIRY: I make a new proposition that the House may permit us to discuss the principle of the Bill.

DEPUTY PRESIDENT: But the House has once supported the motion regarding the discussion on the principle of the Bill.

MR. J. JOHN NIDIRY: It was not a valid support.

DEPUTY PRESIDENT: I have no objection to putting it to the Council once again and taking, if you demand, a division.

MR. K. PARAMESVARAN PILLAI: That might be dangerous.

MR. J. JOHN NIDIRY: Sir, you may adjourn the House now.

DEPUTY PRESIDENT: Yes, we will adjourn now. You might think over the problem yourselves, and I too shall do it. If among ourselves we can get at any method by means of which you can have an opportunity of expressing your opinion which will not interfere with the legality of the procedure, I am perfectly willing to follow it.

I now adjourn the Council. We will meet again at 11-30 A. M. tomorrow.

The House adjourned at 4-49 P. M.

S. PARAMESVARA AIYAR,
Secretary to the Legislative Council.